IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 21265 of 2007(F)

PETITIONER:

NICE RUBBER INDUSTRIES, DEVELOPMENT
PLOT, POOVANTHURUTH, KOTTAYAM,
REPRESENTED BY MANAGING PARTNER, T.P.PHILIP.

BY ADV. SRI.K.M.VARGHESE

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DIRECTOR OF INDUSTRIES AND COMMERCE,
THIRUVANANTHAPURAM.

3. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE,
KOTTAYAM.

BY GOVERNMENT PLEADER SRI. SREEKRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 21265 OF 2007

Dated this the 5th day of September, 2007

JUDGMENT

Petitioner is challenging Ext.P6 order whereunder disallowance of sales tax exemption claimed on additional investment is sustained in appeal. It is seen from ext.P6 order that additional investment was made only in moulds required for manufacture of rubber mats. Moreover, investments were made after withdrawal of sales tax exemption under notification SRO 1092 of 1999 read with SRO 295/2000. However, petitioner's case is that petitioner has made advances for purchase of equipments prior to the cut-off date and therefore he is entitled to exemption on addl. investment. Government Pleader contended that in order to qualify for exemption advance paid should have been through cheque or demand draft. Obviously the requirement of payment through cheque or demand draft is only to ensure that bogus claims are not put up based on payment in cash. The very case of the petitioner that petitioner has made advance payment in cash is not in accordance with notification. This Court has held in the

decision in STATE OF KERALA V. PEPSICO INDIA HOLDINGS (P) LTD, (2004) 3 KLT 85 that if conditions of the notification are not satisfied applicant is not entitled to sales tax exemption. Since both the authorities have found on facts that petitioner has not satisfied the requirement of notification that is payment through cheque or demand draft for the advance made prior to cut-off date, petitioner is not entitled to any relief prayed for. W.P. is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge